

SECOND ANNUAL
STATE OF THE JUDICIARY ADDRESS



The Honorable Charles E. Jones
Chief Justice

January 30, 2002

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Introduction

Mr. Speaker, Mr. President, Honorable Members of the Legislature, fellow justices, other members of the judiciary and distinguished guests, I am honored to appear before you on behalf of the Arizona Supreme Court. I appear both as a judicial officer, and in my administrative responsibility to oversee the third branch of government of the state of Arizona.

In one sense, I am surprised to be here. I was appointed to the supreme court six years ago, but because of age, having spent many years in the private sector, I took no thought of the chief justiceship. Nor have I aspired to the office during my years of tenure. My desire at the time was simply to serve as a member of the state judiciary during my remaining professional years.

Interestingly, it did not occur to me that I might serve in this office in a time of war or during a record-breaking state budget deficit. By contrast, Justice Zlaket has pointed out that while he was chief justice, the economy was robust, the state treasury enjoyed a surplus, and the world was at peace. Surely, timing is everything!

Past Accomplishments

At this moment of reorganization of the court, it is appropriate that we acknowledge the accomplishments achieved during Justice Zlaket's term as chief. During his tenure and certainly with

help from this body, many excellent objectives were accomplished. They include:

The construction of safe, secure juvenile detention facilities in 14 of our 15 counties;

Technological advancements in our judicial system bringing greater efficiency to our courts;

Our model court program, successful statewide in keeping dependent and neglected children from languishing for unduly long periods in foster care;

The re-engineering of criminal case processing with funds the legislature appropriated through our "Fill The Gap" project to provide swift, fair justice to criminal defendants, victims of crime, and taxpayers; and

Improvements to the attorney discipline oversight system, streamlining and shortening by months the process for the disposition of discipline cases.

Justice Zlaket's impact on the administration of justice in Arizona will be felt for years and for generations to come.

My Background

Like some among you, I am not a native Arizonan, but I have deep roots in this great state. My paternal grandparents came from the southeastern United States and settled in Prescott during the era of Reconstruction following the Civil War. My father was born in Prescott and received his schooling in that pioneer community during the latter part of the 19th century.

Many years later, following completion of my formal education and graduation from law school, I determined to accept employment in Arizona, having been offered a position with a Phoenix law firm. That was almost 40 years ago. For my wife, Ann, it was a homecoming as she was born and raised in the Gila Valley, more particularly, in the town of Safford. We have raised all of our children here. They are now grown, settled, educated, and, most fortunately, all are currently employed.

I am indeed proud of our wonderful state of Arizona and remain committed to its future. Thus, I, and my colleagues, along with the Administrative Office of the Courts, will focus our efforts on improving the judicial branch of government to ensure that our state has a dependable system of justice, not only today, but for generations to come.

Case and Revenue Data

The courts form an integral part of our system of government simply because controversies requiring resolution inevitably arise. Courts neither create nor seek these disputes, but it is our constitutional duty to resolve them when they are brought before us.

Last year, more than 2.4 million cases were filed in Arizona courts, and more than \$200 million in fines, fees, and restitution payments were col-

lected. Revenue collected by the courts for the benefit of general and special funds at state, county, and municipal levels increased by more than 7%, while case filings decreased by point four percent (-.4%). I am particularly gratified that restitution payments collected by the courts for the victims of crime increased a dramatic 14.2%.

Probation/Public Safety

We operate in more than 300 locations statewide with 9,000 people working in our courts and probation offices. Last year, more than 60,000 adults with felony records and more than 10,000 juveniles were under court-supervised probation in this state. After budget reductions imposed in the recent special session, I have become increasingly concerned that we may no longer be able to provide adequate levels of probation supervision in the interest of public safety. We want to work with you to ensure the proper level of funding for these services. The judicial department's total state budget amounts to 2.3% of the general fund budget of the state. However, that small percentage, 2.3%, is important to ensure viability of the public responsibilities delegated to us.

Justice for a Better Arizona

A Strategic Agenda

As chief justice, I have adopted an agenda consisting of five strategic initiatives. Some reflect a continuation of worthy efforts started earlier, but still in need of careful attention. Others will reflect a new flavor. They are:

First, Protecting Children, Families, and Communities;

Second, Providing Access to Swift, Fair Justice;

Third, Connecting with the Community;

Fourth, Being Accountable; and,

Fifth, Bringing about needed improvements in certain vital areas of the Legal Profession.

Focus for 2002

JP Enhancement

Ninety-five percent (95%) of the cases filed in Arizona are addressed by our courts of limited jurisdiction. These are trial courts consisting of justices of the peace and municipal magistrates. Such courts affect thousands of citizens each day, and in them we have many dedicated and competent judges.

Occasionally, we read of judicial misconduct, and recognize that while all cases involving misconduct are not unique to limited jurisdiction courts, we have seen too many in recent months and years that are. This session, we will work with Senators Jarrett and Smith and Representative Gary Pierce on legislation introduced to improve qualifications and training for the office of Justice of the Peace—qualifications,

incidentally, which have not been materially altered since 1912.

We are anxious to streamline case management in these courts. We want them to focus on processing PEOPLE, NOT PAPER. Several reforms are in the making to accomplish these ends and we enlist your support.

Advancing Technology

On another front, automation of court record keeping is also vital. Investigations following the terrorist attacks of September 11 have demonstrated the absolute need to complete the roll-out of technology by which judicial information systems are linked with other parts of government. The experience of 9/11 demonstrated painfully that information needs to be available to the right people, at the right time, both in the state and federal sectors. In our limited information systems that now exist, we searched our electronic database after 9/11, at the request of FBI investigators, and actually found records on individuals suspected by federal law enforcement agencies to be terrorists who had lived in our state and had violated our laws while here. We have made strides, but our overall goal is still in its infancy.

Tomorrow we will launch an addition to our web site, complete with the ability to search for information literally on millions of Arizona court cases. In future years, if we can obtain the funding, all courts will have their information available online.

Last year, Justice Zlaket promised we would create a multi-purpose data warehouse which, among other things, would make orders of pro-

tection available to law enforcement agencies 24 hours a day. We have launched the first phase of that system on schedule, and we have received a federal grant to assist with the next phase.

These technological advancements have been paid for in substantial part by the users of our justice system. We need your support to ensure that the databases continue to be maintained by the people who use the system. That is why we are asking this legislature to consider legislation that would provide a modest increase in some user fees.

How the judicial branch is funded is, of course, a policy decision for the legislature. It is, therefore, a matter for this body to determine whether the information systems being developed to promote public safety will be funded, and if so, whether funding should come through fees charged to the users, or from taxpayers through the state general fund. Representative Voss has a bill that will allow you to express a choice on that issue, and we look forward to working with her on this important piece of legislation.

Family Court Reform

On a most critical matter, we have also indicated the need for reform in our domestic relations courts. It is there, most of all, that we observe human distress and anguish over such vital issues as dissolution of marriage, child custody, and domestic violence. Familial relationships, parental rights, even lives are sometimes at stake. Thus, we are conducting an evaluation of better ways to address domestic issues, particularly as they affect children.

We seem to have discovered that our traditional adversary process, in use in the courts of the English-speaking world for centuries, may not provide the best approach by which to resolve emotion-packed family issues.

But, even if courts were to find a better way, I hasten to state that the judicial branch is not equipped and cannot provide a complete solution to serious social and other problems related to the family. We can undertake to do our part and share some of the duties, but in the end, the courts are best geared to the resolution of legal issues and are thus constitutionally proscribed from addressing the broad social issues.

We believe, however, that improved methods by which to address family law issues can and should play a role in breaking cycles of violence and providing families with an unbiased venue for the resolution of family controversy. Thus, in our superior courts, we are now beginning the process of re-examining family-related issues, and in some counties, integrated family courts, designed to provide greater consistency in the resolution of these issues, are being established.

We anticipate working with Representative Johnson, Representative Hershberger, Senator Hartley, and Senator Peterson, all of whom lead the child support enforcement and domestic relations reform committee.

Before leaving the subject of the family, may I digress just a moment. It is my personal belief that we will not unburden the courts and will not find success in this area until parents who habitually neglect the needs of children begin taking responsibility by nurturing and motivating them at every step along the way. If society cannot accomplish that objective, I believe the problems will simply multiply rather than diminish.

Fiduciaries

Addressing another important subject, this body, three years ago, passed legislation requiring the Administrative Office of the Courts to license and supervise fiduciaries who are appointed by the courts to oversee the assets of some of our most vulnerable citizens, both the young and the elderly. While most fiduciaries perform well, unfortunately some do not. We have now documented literally several millions of dollars some fiduciaries have embezzled from the children and the aging seniors for whom they have responsibility. We simply cannot allow this to continue.

We have taken steps available to us to remedy the problem, but we need your help. Our problem, in large measure, is our inability, due to lack of resources, to provide for the auditing of records. This session Senator Richardson and Representative Voss will propose legislation that will make available the additional tools necessary to help protect these vulnerable citizens. We ask that you look carefully at this legislation as it is badly needed.

Complex Litigation Task Force

On another subject, we live in an economy that conducts business rapidly in a complex world. We must, therefore, have an effective system for handling complex litigation that arises with increasing frequency. Advancements in science

and technology, and the demands businesses face competing in world markets, have prompted the creation of a Complex Litigation Task Force consisting of business lawyers, trial judges and public members. Senator Cirillo has agreed to serve on this committee and offer his experience and insight.

I have charged the task force with reviewing the pros and cons of creating a complex civil litigation division in our superior court and to report back to the Arizona Judicial Council this summer. Numerous other states have established such courts, generally with favorable results.

Challenges Ahead

Whether we achieve the objectives outlined today, will be determined in large measure by the willingness of the Legislature, given current budget constraints, to help us get the job done. What is clear to us is that funding provided by this body will have a direct impact on the quality of justice available to the people of Arizona.

Working Together For A Better Arizona

As I conclude, I reflect on our national history. A new nation came together more than two centuries ago, the result of blood, toil and sacrifice. A determined people embarked on a noble experiment in government, in their own words, “to form a more perfect union.” Most had withdrawn from European homelands by reason of religious persecution, absolute monarchies where there was no rule of law, and human deprivation stemming from forms of totalitarian government. They sought something better, a form of government that would encourage the expression of human liberty and recognize human dignity.

Thus, on these shores, they established a form of limited government with checks and balances to ensure that within the new republic, no one individual and no single branch or agency of government could wield an excessive concentration of power.

Yet, while each branch of government is independent, each depends on the others to function within constitutionally assigned spheres. The legislature establishes public policy and controls the treasury. The executive implements the policy and enforces the law. These branches, legislative and executive, exercise the political power of government.

The judicial role is vastly different. Courts were never intended to exercise political power. We

exercise only the power of judgment. We are called upon simply to resolve controversy, to give meaning to the law, calling on the best of our abilities to provide justice, equity, and balance among all the competing interests. To do so, we depend on the trust and confidence of the people—the same people that gave us our Constitution, and the same people that today, offer sustaining hope for the perpetuation of our inspired form of government. The judicial power is vital because, inevitably, the resolution of controversy among citizens, or between the government and the people, or even between competing departments of government requires independent application of the rule of law.

Those who led this grand experiment in human liberty established a nation of laws which have guided us through a revolution, a civil war, the dark days of two world wars, Korea, Vietnam, depressions, even assassinations. They have preserved democracy when threatened by military or terrorist attack. Our great institutions have spread from one coast to the other. We have been to the moon and returned safely.

And as a state, we will survive the challenge now facing us because we will face it together. While we may not agree on all issues, we shall join together as Arizonans, as Americans before us have joined, to surmount the challenge and to achieve today’s important objectives on behalf of this remarkable state in which we live.